

1 AN ACT  
2 RELATING TO EMPLOYMENT; CLARIFYING DEFINITIONS IN THE  
3 EMPLOYEE LEASING ACT TO ENSURE PROPER CLASSIFICATION.  
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5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. Section 60-13A-2 NMSA 1978 (being Laws  
7 1993, Chapter 162, Section 2) is amended to read:

8 "60-13A-2. DEFINITIONS. --As used in the Employee  
9 Leasing Act:

10 A. "applicant" means a person applying for  
11 registration as an employee leasing contractor;

12 B. "client" means a person who obtains workers  
13 through an employee leasing arrangement;

14 C. "department" means the regulation and  
15 licensing department;

16 D. "employee leasing arrangement" means any  
17 arrangement in which a client contracts with an employee  
18 leasing contractor for the contractor to provide leased  
19 workers to the client; provided, "employee leasing  
20 arrangements" does not include temporary workers;

21 E. "employee leasing contractor" means any  
22 person who provides leased workers to a client in New Mexico  
23 through an employee leasing arrangement;

24 F. "leased worker" means a worker provided to a  
25 client through an employee leasing arrangement; provided

1 that if a worker works and should be classified in any  
2 construction class or in any oil and gas well service or  
3 drilling class pursuant to provisions of or regulations  
4 adopted under the New Mexico Insurance Code, the worker  
5 shall be presumed to be a leased worker and the employee  
6 leasing contractor that provides the worker shall comply  
7 with the provisions of the Employee Leasing Act;

8 G. "person" means an individual or any other  
9 legal entity;

10 H. "temporary services employer" means an  
11 employing unit that contracts with clients or customers to  
12 provide workers to perform services for the client or  
13 customer and performs all of the following functions:

14 (1) negotiates with clients or customers  
15 for such matters as time, place, type of work, working  
16 conditions, quality and price of the services;

17 (2) determines assignments of workers, even  
18 though workers retain the right to refuse specific  
19 assignments;

20 (3) retains the authority to reassign or  
21 refuse to reassign a worker to other clients or customers  
22 when a worker is determined unacceptable by a specific  
23 client or customer;

24 (4) assigns the worker to perform services  
25 for a client or customer;

1 (5) sets the rate of pay for the worker,  
2 whether or not through negotiation; and

3 (6) pays the worker directly; and

4 I. "temporary worker" means a worker employed or  
5 provided by a temporary services employer to support or  
6 supplement another's work force in special work situations,  
7 such as employee absences, temporary skill shortages,  
8 temporary provision of specialized professional skills,  
9 seasonal workloads and special temporary assignments,  
10 including the production of motion pictures, television  
11 programs and other commercial media projects; provided that  
12 if a worker who is employed or provided by a temporary  
13 services employer works and should be classified in any  
14 construction class or in any oil and gas well service or  
15 drilling class pursuant to provisions of or regulations  
16 adopted under the New Mexico Insurance Code, the worker  
17 shall be presumed to be a temporary worker and the temporary  
18 services employer that provides the worker shall comply with  
19 the provisions of the Employee Leasing Act. "

20 Section 2. EFFECTIVE DATE. --The effective date of the  
21 provisions of this act is July 1, 2003. \_\_\_\_\_

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